IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9034 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GUJARAT RAFFIA INDUSTRIES LTD.

Versus

UNION OF INDIA

Appearance:

1. Special Civil Application No. 9034 of 2002
MR PARESH M DAVE for Petitioner No. 1-2
MR DN PATEL for Respondent No. 1
NOTICE SERVED BY DS for Respondent No. 2-3

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.A.MEHTA

Date of decision: 22/10/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

Rule. Service of rule is waived by Shri D.N. Patel, learned Senior Central Government Standing Counsel, for the respondents. At the request of the learned advocates, the petition is finally heard today.

2. The grievance of the petitioner is that an appeal filed by the petitioner before respondent No. 2 has been dismissed by an order dated 5.4.2002, whereas an appeal involving similar facts had been allowed by respondent No. 2 by an order dated 16.7.2002. Copies of the orders passed by respondent No. 2 have been annexed to the petition as Annexure F & G, respectively.

3. Learned Senior Central Government Standing Counsel Shri D.N. Patel could not dispute the fact that the facts involved in both the appeals were similar.

4. In view of the fact that two different views are taken on the same subject-matter by the same officer working as an appellate authority, in our opinion, it would be just and proper to quash and set aside the impugned order dated 5.4.2002 bearing No. COMMR(A)/286/AHD-II/2002. It is also not in dispute that the controversy , which was subject-matter of the appeal, has now come to an end by virtue of an order passed by the Tribunal in the case of M/s. M&B Footwear Pvt. Ltd. v. Commissioner of Central Excise, Meerut, 1997(96) ELT 369. We are sure that the appellate authority shall look into the facts and settled legal position while deciding the appeal.

The petition stands disposed of as allowed. Rule is made absolute with no order as to costs.

(A.R. Dave, J.)

(D.A. Mehta, J.)

(hn)